R e m a r k s

Claims 1-20 are pending in the application with claims 1 and 11 as independent claims.

Claims 1, 3, 5 and 7 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 4, 6 and 9 of U.S. Patent No. 6,604,224 in view of Mendelson et al. (US 5,561,791, hereinafter Mendelson) and the ISO/IEC 13818-1 Standard (hereinafter ISO/IEC).

Claims 1, 3-8, 11 and 13-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mendelson in view of ISO/IEC and Neel et al. (US 5,838,314, hereinafter Neel).

Claims 2 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mendelson in view of ISO/IEC and Neel and further in view of Mourad (US 5,678,061, hereinafter Mourad).

Claims 9 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mendelson in view of ISO/IEC and Neel and further in view of Ghodrat et al. (US 6,717,947, hereinafter Ghodrat).

Claims 10 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mendelson in view of ISO/IEC and Neel and further in view of Anderson et al. (US 6,275,507 B1, hereinafter Anderson).

Each of the various rejections are overcome by the various arguments that are herein presented.

Double Patenting Rejection

Claims 1, 3, 5 and 7 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 4, 6 and 9 of U.S. Patent No. 6,604,224 in view of Mendelson and ISO/IEC.

Since a double patenting rejection depends on the claims of the application, until Applicants have claims that are allowable but for the double patenting rejection, Applicants cannot evaluate the correctness of any suggested double patenting rejection. As such, Applicants also cannot determine any arguments that might be put forth against the suggested double patenting rejection. Therefore, as this double patenting rejection is premature, Applicants will address such a ground of rejection once all other grounds of rejection are overcome.

Rejection Under 35 U.S.C. 103(a)

Claims 1, 3-8, 11 and 13-18

Claims 1, 3-8, 11 and 13-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mendelson in view of an ISO/IEC specification and Neel. The rejection is traversed. The Applicants' claim 1 recites:

> A method for providing content-on-demand, comprising:
> dividing a content stream in to a plurality of extents containing packetized information appropriate to a temporal period represented by each extent; and
> associating with each extent, extent data comprising a plurality of content data packets, and an extent trailer comprising a unique content identifier, a logical extent number, a track-type identifier, and a circular redundancy check.

Mendelson fails to teach or suggest Applicants' independent claim 1, as a whole. The Examiner equates 'extents' to 'protocol data units.' (See Office Action, page 6). Applicants respectfully disagree. The Examiner did not provide any explanation and rationale as to why the prior art element is an equivalent as is required under those circumstances. (See MPEP §2183). The Examiner parenthetically likened the two elements. Additionally, an extent contains packetized information appropriate to a temporal period of about 2 seconds whereas a protocol data unit does contain said temporal

period. Furthermore, the specific fields of the extent's trailer are different than protocol data unit's as the Examiner concedes on Page 6 of Examiner's Office Action dated September 16, 2008 ("Office Action"). Consequently, an extent is not a protocol data unit as asserted by the Examiner. Therefore, the Examiner fails to establish a prima case of obviousness.

Second, the Examiner asserts the ISO/IEC specification and Neel to purportedly cure the deficiencies of Mendelson set forth above as it relates to claim 1.

ISO/IEC, alone or in combination with Mendelson, fails to teach or suggest Applicants' independent claim 1, as a whole. ISO/IEC, like Mendelson, fails to teach or suggest at least the claimed element of an extent trailer. The Examiner concedes on Page 7 of Examiner's Office Action dated September 16, 2008 ("Office Action") that "ISO/IEC teaches "PES header information" as opposed to a trailer, as claimed in Applicants' independent claim 1.

Furthermore, the Examiner submits that "it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the PES header fields taught by ISO into the protocol data unit (PDU) taught by Mendelson." (See Office Action, Page 7). The Applicants respectfully disagree. The Applicants submit that the combination proposed by the Examiner would destroy the references. Mendelson discloses a header (See FIG. 3 and col. 5, lines 39-44) and a cell of _fixed_ length of 53 bytes whereas ISO/IEC discloses a PES packet data field which contains a _variable_ number of contiguous bytes from one elementary stream. (emphasis added) (See section 2.4.1, 5th paragraph). Furthermore, combining the two references would result in a header field whose length is the two headers combined, which again would destroy the specific 53 bytes required by Mendelson.

Third, the Examiner submits that "it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the PES header fields taught by ISO into the protocol data unit (PDU) taught by Mendelson for the benefit of having all the necessary information to reconstruct a TS packet that is in accordance with the widely accepted ISO standard for MPEG systems." (See Office Action, Page 7). In contradistinction to the Examiner's allegation "each extent represents an amount of content

to be presented within a single service period, illustratively two seconds worth of video information and associated audio information. The information server 125 comprises a plurality of hard disks arranged as a disk array. The content is distributed on an extent-by-extent basis, across the available disk drives within the disk array." (See specification, page 5, lines 20-25). Therefore, the reason articulated by the Examiner is erroneous.

As such, a *prima facie* case of obviousness has not been established because there is no motivation to modify Mendelson with the teachings of ISO/IEC in the manner suggested by the Examiner since any such modification would render Mendelson unsatisfactory for its intended purpose.

As for independent claim 11, the claim utilizes "means for" recitations, and as such requires the Examiner to consider the specific structure described in the specification to interpret these limitations. The present invention, as claimed, does not read on Mendelson alone or combined because the two implementations differ diametrically. Therefore, the "means for" limitation recited in the invention cannot be broadly interpreted by the Examiner to read on the implementation taught by Mendelson or the combination thereof. In re Donaldson Co., 16 F.3d 1189, 29 USPQ2d 1845 (Fed. Cir. 1994). The structure disclosed by the Applicants cannot be disregarded. Because Mendelson alone or combined with ISO/IEC and Neel does not teach or suggest each and every element of claim 11, it does not render claim 11 obvious. Therefore, for at least the reasons discussed above, Mendelson, ISO/IEC and Neel, alone or in any permissible combination, fail to teach or suggest Applicants' independent claim 11 as a whole. Furthermore, since all of the dependent claims that depend from independent claims 1 and 11 include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim is also allowable over Mendelson, ISO/IEC and Neel under 35 U.S.C. 103.

As such, Applicants' claims 1, 3-8, 11 and 13-18 are allowable under 35 U.S.C. 103(a) over Mendelson in view of ISO/IEC and Neel. Therefore, the Examiner's rejection should be withdrawn.

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Claims 2, 9, 10, 12, 19, 20

Claims 2 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mendelson in view of ISO/IEC and Neel and further in view of Mourad. Claims 9 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mendelson in view of ISO/IEC and Neel and further in view of Ghodrat. Claims 10 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mendelson in view of ISO/IEC and Neel and further in view of Anderson. The rejections are traversed.

These grounds of rejection apply only to dependent claims, and are predicated on the validity of the rejection under 35 U.S.C. 103 given Mendelson in view of ISO/IEC and Neel. Since the rejection under 35 U.S.C. 103 given Mendelson in view of ISO/IEC and Neel has been overcome, as described hereinabove, and there is no argument put forth by the Office Action that the additional references supply that which is missing from Mendelson in view of ISO/IEC and Neel to render the independent claims obvious, these grounds of rejection cannot be maintained.

As such, claims 2 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mendelson in view of ISO/IEC and Neel and further in view of Mourad; claims 9 and 19 are patentable under 35 U.S.C. 103(a) over Mendelson in view of ISO/IEC and Neel and further in view of Ghodrat; claims 10 and 20 are patentable under 35 U.S.C. 103(a) over Mendelson in view of ISO/IEC and Neel and further in view of Anderson. Therefore, the Examiner's rejections should be withdrawn.
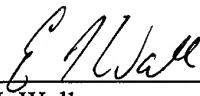
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Conclusion

It is respectfully submitted that the Office Action's rejections have been overcome and that this application is now in condition for allowance. Reconsideration and allowance are, therefore, respectfully solicited.

If, however, the Examiner still believes that there are unresolved issues, he is invited to call Eamon Wall at (732) 530-9404 so that arrangements may be made to discuss and resolve any such issues.

Respectfully submitted,

Dated: _11/7/08_

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